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Security Council

Seventy-first year

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7806th meeting

Wednesday, 9 November 2016, 3.10 p.m.

New York

President:	Mr. Seck	(Senegal)
Members:	Angola	Mr. Gimolieca
	China	Mr. Xu Zhongsheng
	Egypt	Mr. Kandeel
	France	Mr. Lamek
	Japan	Mr. Akahori
	Malaysia	Mrs. Adnin
	New Zealand	Mr. Taula
	Russian Federation	Mr. Zagaynov
	Spain	Mr. Gasso Matoses
	Ukraine	Mr. Vitrenko
	United Kingdom of Great Britain and Northern Ireland	Ms. Mulvein
	United States of America	Ms. Sison
	Uruguay	Mr. Rosselli
	Venezuela (Bolivarian Republic of)	Mr. Suárez Moreno

Agenda

The situation in Libya

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The meeting was called to order at 3.10 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Libya

The President (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Libya to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I now give the floor to Ms. Bensouda.

Ms. Bensouda: I welcome the opportunity to once again engage with this body as I present my Office's twelfth report on the situation in Libya, pursuant to Security Council resolution 1970 (2011).

Allow me at the outset to emphasize that the Office of the Prosecutor is grateful for the support it received during the reporting period in conducting its work on the situation in Libya. My Office has received that critical support from an increasing number of both States parties and non-States parties to the Rome Statute of the International Criminal Court (ICC), including members of the Council. That cooperation has greatly facilitated our work vis-à-vis Libya and must be recognized.

To cite one example, the Council will recall that during my last briefing on 26 May (see S/PV.7698), I reported on my official visit to Cairo and on the positive dialogue and engagement between my Office and the Egyptian authorities on several matters. In conformity with its mandate, my Office continued to pursue issues of mutual interest with the Egyptian authorities, including in relation to the situation in Libya and the challenges facing the region of North Africa, such as the security and destabilizing threats posed by terrorism and extremist groups, such as the so-called Islamic State in Iraq and the Levant, or Da'esh. Since my visit, my Office has continued to liaise with the Arab Republic of Egypt in order to advance our shared goals of bringing justice to the victims of grave crimes.

I am hopeful that in my next report in May 2017, I will be able to report tangible results of that positive engagement. I am confident that the Arab Republic of Egypt will be a leading example by building on the existing level of cooperation and continuing and strengthening its voluntary cooperation with the Court.

Let me provide a brief update on the Saif Al-Islam Al-Qadhafi and Abdullah al-Senussi cases. Following that update, I will discuss the current situation in Libya and my Office's plans for further investigations.

As the Council will recall, on 26 April, my Office filed a request with the Pre-Trial Chamber of the Court for an order directing the Registry to transmit a request to Mr. Al-'Ajami Al-'Atiri for the arrest and surrender of Mr. Al-Qadhafi to the ICC. Mr Al-'Atiri commands the Abu-Bakr al-Siddiq Battalion in Zintan, Libya, and has control of Mr. Al-Qadhafi. On 2 June, the Pre-Trial Chamber ordered the Registry of the Court to communicate with the Libyan authorities as to whether the request for arrest and surrender of Mr. Al-Qadhafi could be served directly on Mr. Al-'Atiri either by the Libyan authorities or the Court. Recently, on 28 October, the Registry filed an update on the progress of the Pre-Trial Chamber's order. That update contained in a confidential annex a reply from the Libyan Attorney-General's Office, dated 29 September. In the update, the Registry sought guidance on what further course of action it should take to communicate with the relevant Libyan authorities. My Office is awaiting the Pre-Trial Chamber's decision on the next steps in relation to that matter.

Also in relation to the Al-Qadhafi case, in July media reports suggested that Mr. Al-Qadhafi had been released from detention in Zintan on the basis of a grant of amnesty. I must report that reliable sources, including the Libyan Prosecutor-General's Office, have confirmed that information to be incorrect. From the information available to the Office, it is clear that Mr. Al-Qadhafi remains in Zintan and is still outside the custody and control of the Presidency Council of the Government of National Accord. My Office again calls on the Libyan authorities to ensure that they do everything possible to have Mr. Al-Qadhafi transferred to the ICC without any further delay, in keeping with their obligations under the Rome Statute.

Regarding the Al-Senussi case, my Office awaits the full report of the United Nations Support Mission in Libya on the conduct of the domestic trial and will study

it carefully when it is available. At this stage, my Office remains of the view that no new facts have arisen that negate the basis on which the Pre-Trial Chamber found Mr. Al-Senussi's case inadmissible before the Court. As I have repeatedly stated, including before the Council, my Office will continue to review its assessment on the matter as and when new information becomes available in accordance with article 19 (10) of the Rome Statute.

Allow me to offer a few words about the current challenging situation in Libya. In short, the situation continues to deteriorate and innocent civilians continue to bear the brunt of the fighting between the warring factions vying for control of Libyan territory. The current state of affairs in which civilians are victimized is completely unacceptable. As stated in my Office's twelfth report to the Council, multiple conflicts across Libya consume the country and parties to the conflict allegedly continue to commit serious crimes.

The Council has repeatedly condemned crimes allegedly committed by Da'esh, Ansar Al-Sharia and other parties to the conflict in Libya. Executions, including allegedly by Da'esh, reportedly account for the largest numbers of killings during the reporting period. Reports of mass graves are on the rise. There are also multiple reports of civilian deaths from indiscriminate air strikes, shelling and gunfire. Abductions and unlawful detentions continue. The number of internally displaced persons in Libya is believed to number approximately 350,000. Finally, Libya is a major hub for the illegal migration trade, which I will discuss in more detail shortly.

I must also take this opportunity to join the United Nations Support Mission in Libya (UNSMIL) and others in strongly condemning the attempt in October to seize the headquarters of the High Council of State in Tripoli. I share the view reflected in the 25 October joint communiqué issued by the League of Arab States, the African Union and UNSMIL that such actions are detrimental to the stability and security of the country. The persistent instability and armed conflict prevent my Office from conducting investigations within Libyan territory in relation to both existing and potential new cases. Nevertheless, my Office continuously analyses the security situation through a variety of sources in order to identify opportunities to investigate in situ in Libya. The Office will continue to work in partnership with the Libyan Prosecutor-General's office to find a solution to safely conduct investigations in Libya as soon as possible.

In relation to those efforts, my Office notes resolution 2291 (2016), and in particular the Council's request to all parties to cooperate with UNSMIL and ensure the security of United Nations and associated personnel in Libya. I urge the Council to expressly extend the request to include ICC personnel conducting investigations in Libya. Doing so will help facilitate one of my Office's major goals of ensuring that our investigators return to their work inside Libya as soon as possible. My Office is committed to intensifying its efforts to deter the current climate of impunity in Libya. Notwithstanding the many difficulties posed by the investigations of the Libya situation, including in particular resource challenges, my Office will do all it can to significantly expand investigations in 2017. The new investigations will consider bringing charges for recent and current instances of alleged serious criminal activity falling under the Court's jurisdiction, which could potentially include alleged crimes committed by Da'esh and affiliated groups.

My commitment to making Libya a priority situation in 2017 is compelled by a number of factors, including the widespread violence, lawlessness and impunity that currently prevail in many parts of the country; a desire to provide justice for victims of Rome Statute crimes and alleviate the suffering of those civilians who continue to endure the tragic consequences of the conflict in Libya; and, finally, the opportunities for further investigation that the Office has identified. Furthermore, my Office's ongoing efforts in regard to the arrest of an additional suspect or suspects have advanced significantly. I can report to the Council that my Office intends to apply for new warrants of arrest under seal as soon as practicable and hopes to have new arrest warrants served in the near future. The timely execution of the new arrest warrants will be crucial, require coordinated efforts by States and may also require support from the Council.

My Office cannot accomplish its goals in Libya acting alone. Addressing the widespread criminal activity that continues to beset Libya requires a coordinated approach and joint efforts by all concerned. It is with that in mind that my Office continues its efforts of working with our partners to develop coordinated investigative and prosecutorial strategies to close the impunity gap for ICC crimes in Libya. Pursuant to its Strategic Goal 9, the Office convened a two-day operational level meeting in The Hague in October, bringing together judicial and investigative agencies

from several States. The productive meeting resulted in agreement in principle that the Office would work collectively with the States with a view to augmenting their respective, independent investigative efforts.

In particular, the Office is engaging with those agencies investigating individuals involved in organized crime and facilitating and financing illegal migration through Libya. The importance of investigating alleged crimes related to illegal migration is reflected in resolution 2312 (2016), adopted by the Council on 6 October. In 2017, my Office intends to step up its cooperation with States in relation to that issue and will continue to study the feasibility of opening an investigation into alleged criminal acts against refugees and migrants in Libya, including any alleged acts of sexual violence or crimes against children that fall under the Court's jurisdiction.

In discussing collaboration, I must also acknowledge with gratitude that the Office's investigative efforts have greatly benefitted from the operational investigative support and cooperation that it continues to receive from the Libyan Prosecutor-General's office. Regional States, including in particular the Republic of Tunisia and the Hashemite Kingdom of Jordan, have also continued to cooperate with my Office in its investigations in Libya, for which my Office is grateful. Exceptionally, certain States have proved far less cooperative, and I take this opportunity to urge all States that have not responded to our requests for assistance to do so without further delay.

Despite the challenges Libya that currently faces, certain initiatives demonstrate that peaceful negotiated outcomes to conflicts are achievable and must be supported. One commendable example is the 31 August Misrata-Tawergha Agreement on the Return of the Displaced and Compensation of those Affected. My Office encourages other such initiatives aimed at improving the lives of the people of Libya. My Office continues to receive many delegations from various parts of Libya, who represent civilians adversely affected by the conflict. I welcome the opportunity to meet with those delegations and hear directly about the experiences of the Libyan civilians whom they represent.

In the same vein, the Office also continues to receive, from nongovernmental organizations, private citizens and other sources, information and potential evidence of acts that have allegedly caused grave harm to civilian populations. In particular, those include attacks that may adversely impact the civilian population, preventing them from fleeing violence and obtaining access to food, medicine and other basic needs. As a case in point, my Office followed with concern the recent 6 October statement regarding the residential district of Ganfouda in Benghazi, made by Martin Kobler, the Special Representative of the Secretary-General and Head of UNSMIL. In particular, Special Representative Kobler indicated that he is deeply disturbed by reports that civilians in Benghazi's Ganfouda neighbourhood continue to be caught in the cross-fire of fighting and suffer shortages of food, water and medicines. Special Representative Kobler indicated that UNSMIL has been working to support the Libyan mediation process in order to minimize the suffering in Ganfouda. I understand that an evacuation plan has been discussed. My Office welcomes that important development and will continue to closely scrutinize the situation in Ganfouda and the actions of all parties to the conflict in accordance with the Rome Statute criteria.

To conclude, the Council referred the situation in Libya to my Office. By definition, the referral carries great responsibility to seek justice for the countless civilians who have been victims of the widespread crimes in Libya since 15 February 2011. Compelled by this responsibility, I have decided to allocate additional resources from within my Office's overall budget to the Libya situation. I have no choice if further concrete progress is to be made in our investigations. Without the Council's support, that allocation will necessarily come at the expense of investigations of other crimes in other situations. I appeal to the Council to recognize the collective responsibility arising out of its referral and to support United Nations financial assistance for my Office's Libya investigations in 2017. The Libyan people deserve no less.

Atrocity crimes demand unequivocal and universal condemnation and accountability. In adopting the Rome Statute, States recognized not only that reality but also the intrinsic link between accountability for atrocity crimes and sustainable peace and security. The Court remains fully committed to its mandate to help end impunity for the world's gravest crimes, and in doing so to contribute to preventing future atrocities. In that essential mission, we count on the principled support of this body and the States parties and non-State parties to the Rome Statute — indeed, of the international

community writ large — to realize the full potential of the Rome Statute system in Libya and elsewhere. That is a must if we are to fully respond to the plight of victims by dispensing justice and to strengthen the international rule of law.

The President (*spoke in French*): I thank Ms. Bensouda for her briefing.

I now give the floor to the members of the Security Council.

Ms. Mulvein (United Kingdom): I would like to begin by welcoming the Prosecutor of the International Criminal Court (ICC) back to the Council and thanking her for her briefing today. The United Kingdom is grateful for her twelfth report, and I thank her and her Office for their continuing investigation of the situation in Libya.

Whether in Libya or any other country, the ICC has a vital role to play in challenging impunity and ensuring the accountability of those who bear the greatest responsibility for the most serious crimes of international concern. Sadly, such crimes continue to this day in Libya. We are deeply concerned about the fact that civilians continue to suffer inexcusably from the conflict and are subjected to violations and abuses perpetrated by the parties to it. Civilian and residential areas have been besieged, restricting people's access to food, medical supplies and sometimes water and electricity. More than 400,000 people have been displaced by the conflict.

The spread of Da'esh is further exacerbating the crisis. The group poses a serious threat to all Libyans and the wider region. We condemn its barbaric crimes and call for their perpetrators to be held to account. The global campaign to bring Da'esh to justice — launched during the general debate of the General Assembly in September by the Foreign Secretary of the United Kingdom, Mr. Ibrahim Al-Jaafari, Minister for Foreign Affairs of Iraq and Mr. Didier Reynders, Minister for Foreign Affairs of Belgium — will help to ensure that there is no impunity for those responsible.

We fully understand the Office of the Prosecutor's determination to prioritize her investigations in Libya in 2017, but we remain concerned about the possibility that the security situation will continue to prevent her from undertaking full investigative activities at this time. Without a unified and accountable security structure across the country to enforce law and order and protect civilians, supported by an independent judiciary, crimes falling within the Court's jurisdiction may continue to occur. The rule of law must apply throughout Libya and, ultimately, all perpetrators must be held to account and tried in court in a transparent and open manner. The United Kingdom will continue to work with international partners to provide Libya with the support it needs to meet the challenges it faces.

We have taken note of the Office of the Prosecutor's request for assistance through the Security Council regarding applications for new arrest warrants for additional suspects. We thank the Prosecutor for her briefing on the cases against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The United Kingdom calls on Libya to take steps to enable the handover of Saif Al-Islam Al-Qadhafi to the ICC without delay, and to consult with the Court in order to address any problems that might impede his transfer to The Hague.

We thank the Prosecutor's Office for continuing to monitor allegations of torture and similar abuses in Al-Hadba prison, and we note with concern the unconfirmed report that an individual previously suspected of torture has returned to the prison and holds a position of authority there. We support the steps that the Prosecutor's Office has taken to enhance cooperation with additional national law-enforcement agencies that are also working on Libya-related investigations. We commend the Libyan Prosecutor General and Libya's representative to the Court for their continued positive and constructive engagement with the Office of the Prosecutor. Cooperation between the Office and the Libyan authorities is vital if they are to tackle impunity for atrocity crimes. We would also like to take this opportunity to thank the Tunisian and Jordanian authorities for facilitating the Prosecutor's investigations.

In conclusion, we recognize the additional financial constraints that the Office of the Prosecutor faces. We respect her independence in deciding on the best use of those resources. As the United Kingdom, we are working for a budget outcome that both meets the needs of the Court and is aligned with the means available.

Mr. Lamek (France) (*spoke in French*): I would like to thank Prosecutor Bensouda for her twelfth report and her briefing. I would like to reaffirm France's support for the Prosecutor and the International Criminal Court as a whole, and also to commend her on her successful implementation of resolution 1970 (2011),

which referred the situation in Libya to the Court. The resolution also reflects the Council's support of an institution with the most important of missions — to ensure that the most serious crimes of concern to the international community, as the preamble to the Rome Statute has it, do not go unpunished.

Thanks to the reports, we are pleased to note the efforts made by the Office of the Prosecutor, working closely with the Libyan judicial authorities. Once again, we are well aware that insecurity and instability make the task of conducting ongoing and future investigations a particularly delicate one. The security threats must be carefully evaluated in order to decide whether investigations on the ground are possible. In view of the fact that the security conditions required for conducting investigations on the ground cannot always be met, France backs the Office's efforts to do so remotely to the extent possible. In that regard, we fully support initiatives and programmes designed to facilitate the collection of evidence and testimony via secure channels.

There can be no question that much remains to be done to end impunity in Libya. That is why we believe it is more essential than ever to ensure that the Council continues to support the Court and mediation under the auspices of the United Nations, including by Mr. Martin Kobler, the Special Representative of the Secretary-General. We also offer our full support to the Presidential Council, led by Mr. Fayez Al-Sarraj, in order to help him deal with the challenges he is facing.

Besides those general comments, I would like to make three more specific ones.

First, France recalls that the Office's ability to conduct investigations requires the full cooperation of all stakeholders. And for that cooperation to be effective, it must take an integrated approach and function at various levels, giving priority to the principle of complementarity.

Secondly, France supports the assertion in paragraphs 13 and 14 of the report that close cooperation with the Libyan authorities is essential to conducting investigations securely, as mandated by Rome Statute of the Court and by the Council. The memorandum of understanding of November 2013, on the sharing of responsibilities with the Libyan authorities, provides a framework for that. Similarly, we welcome the valuable document transmission and operational support provided by the Office of the Prosecutor General of Libya, which is also working in particularly difficult conditions. We are pleased that the meetings that took place in October explored new opportunities for mutual support.

With regard to the adoption of resolution 2291 (2016), of 13 June, which extended the mandate of the United Nations Support Mission in Libya to 15 December, France notes the appeal of the Office of the Prosecutor for all parties to cooperate and ensure the security of United Nations and associated personnel to also apply to officials of the International Criminal Court who are leading investigations in Libya.

Furthermore, as recalled in the report, the Security Council, in paragraph 5 of resolution 1970 (2011), urged all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor. France therefore considers it crucial to strengthen cooperation with all States, whether or not they are parties to the Rome Statute, so that requests made by the Office be responded to in the most efficient and timely manner. This required collaboration with the States of the region and beyond is all the more essential in the case of highly complex and transnational investigations, which require a coordinated strategy. The cooperation of the Jordanian and Tunisian authorities is particularly appreciated in this regard.

Our second comment concerns the elements of the report relating to ongoing investigations. France considers it crucial that Mr. Saif Al-Islam Al-Qadhafi be delivered promptly to the Court, pursuant to the request of its judges. France urges Libya to do everything it can to honour this obligation and put an end to the breach it is committing. Furthermore, in the case brought against Mr. Abdullah Al-Senussi, France notes that the Office, pending the full report of the United Nations Support Mission in Libya on the trial proceedings before a national court, continues to believe that no new facts cripple the evidence on which the Pre-Trial Chamber I relied to declare the inadmissibility of the case before the Court. Finally, France notes the Office's intention to file applications for additional arrest warrants shortly.

Thirdly and finally, France would like to review the future plans outlined by the Office of the Prosecutor in the report. We note the Office's wish to make Libya a priority in 2017 and significantly expand its investigations into crimes committed in Libya since

2011, including crimes alleged committed in Libya by Da'esh, Ansar Al-Sharia and other terrorist groups.

What we see in Libya shows how the absence of justice breeds violence and makes reconciliation more difficult. This is reality that we must keep in mind. It forces us all to find ways to arrive at concrete responses. France, which cooperates with the Court without reservation, considers that this requirement can be met only with the Court's effective functioning and the support of the Security Council in the event of non-cooperation.

Mr. Kandeel (Egypt) (*spoke in Arabic*): At the outset, I would like to extend my thanks to Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing today and for introducing her twelfth report pursuant to resolution 1970 (2011). The report sets out a number of important observations and challenges relating to the performance of the Court in relation to the situation in Libya. In this regard, I would like to emphasize the following points.

First, the Libyan Government needs to consult with the Court with respect to the application to surrender Mr. Saif Al-Islam Al-Qadhafi to the Court. We emphasize the need to extend all forms of assistance to the Libyan Government in a manner that enables it to fulfil its obligations to the Court on this matter.

Secondly, all crimes of torture and inhuman acts perpetrated in Libya need to be stopped, and the international community should support the Government of National Accord in the preparation of a comprehensive strategy to tackle the brutal crimes committed in the country. In addition, assistance should be extended to the Libyan authorities to help them administer justice to the defendants, including by supplying the Government with the weapons it has requested and implementing relevant Security Council resolutions, in particular resolution 2214 (2015).

Thirdly, we underline the importance stated in the report of the Office of the Prosecutor undertaking investigations in Libya during 2017 as a matter of priority, in particular in the light of the crimes perpetrated by Da'esh and Ansar Al-Sharia. Accordingly, the Court must abide by international law and the principle of complementarity between national jurisdictions and that of the ICC, taking into account the fact that the work of the Court is part of a broader action of the international community aimed at bringing terrorists to justice and guaranteeing their accountability for the crimes they have perpetrated.

Fourthly, we emphasize the need for all States as well as the relevant regional and international organizations to cooperate with the Court and the Prosecutor to the greatest extent possible.

Fifthly, there is a need to welcome cooperation and assistance received by the Prosecutor's Office from the Office of the Libyan Prosecutor General, particularly with regard to the submission of information and evidence, continuing the implementation of the memorandum of understanding concluded in November 2013 on burden-sharing in the investigation of former Al-Qadhafi officials and their prosecution.

In conclusion, I would like to voice our appreciation for the important work and great efforts deployed by Ms. Bensouda, the International Criminal Court Prosecutor, and her Office, in pursuit of justice and accountability. We are determined to continue our cooperation with her in that regard.

Mr. Gasso Matoses (Spain) (*spoke in Spanish*): It is an honour for us to see Ms. Bensouda in the Security Council once again. I am very grateful for the updated information she has given us.

In my statement, I shall focus first on two specific aspects of Ms. Bensouda's briefing, namely, the situation of Mr. Al-Qadhafi and on the situation of torture in the prison of Al-Hadba, before continuing with some reflections on the limitations of the Court in the performance of its work.

First, we note that the warrant for the arrest and surrender of Mr. Saif Al-Islam Al-Qadhafi has not been executed. Spain fully understands that the instability prevailing in the country makes it difficult for Libya to deliver the accused. But it should not be forgotten that it still has the obligation to cooperate with the Court and the Prosecution. It is an obligation imposed by the Security Council in resolution 1970 (2011) and it remains fully in force. This obligation therefore requires the Government of National Accord to proceed, at the moment where circumstances allow it, to the immediate arrest of the accused and to turn him over to the Court without further delay.

Secondly, we would like to thank Ms. Bensouda for the information she has provided about the investigation into allegations of torture in Al-Hadba prison. We would echo what was said by the representative of the

United Kingdom and state our concern at the fact that one of the alleged perpetrators has been able to take up his post once again. We are waiting for this information to be confirmed and in the meantime wish to remind the Libyan authorities of the responsibility to investigate and prosecute such actions, which cannot be tolerated.

We deplore the fact that the continuing insecurity in Libya is still hampering the Court in carrying out its investigations in the field. We encourage it, despite the circumstances, to pursue its task. It is necessary to create conditions conducive to allowing the Prosecutor to visit Libyan territory in complete safety. We therefore support Ms. Bensouda's request that the Security Council call on all parties in Libya to cooperate fully with the ICC and to guarantee the safety of its staff.

Furthermore, we would like to recall that the work carried out in Libya by the Office of the Prosecutor, which was mandated by the Security Council, has a financial cost that continues to be borne exclusively by the States parties and which requires that resources be diverted from other investigations or prosecutions.

In Libya, as in other situations with which it is concerned, the ICC depends on the cooperation of all, first and foremost that of the Security Council, but also on that of all States, whether or not they are parties to the Rome Statute. We are encouraged by the information that Ms. Bensouda has provided us about the support given by many of those countries, particularly Tunisia and Jordan, as she noted in her report, and by Egypt, as she mentioned in her briefing. Spain calls on all those countries that have not yet responded to her request to do so as quickly as possible.

The requests made touch also on the work of the Libyan judicial institutions. We reiterate once again our appreciation to the Office of the Prosecutor-General, which, despite the serious situation prevailing in the country, has maintained an active level of cooperation with the Court, which is proof of its commitment to the cause of justice.

Nonetheless, this is not enough. An unacceptable climate of impunity continues to prevail in Libya, with persistent allegations of extrajudicial executions, kidnappings, torture, attacks on journalists and other activists, and attacks on immigrants. Of course, the political circumstances do not help things. The ongoing fragmentation of the country is an increasing source of concern. We take this opportunity to reiterate our appeal to all political actors in Libya to join the dialogue and support the efforts of the Presidency Council as it seeks to establish the Government of National Accord. We also call upon the Governments in the region to continue working together so as to facilitate the reunification of the country and the advent of peace.

Finally, I should like to make a very brief comment, taking advantage of Ms. Bensouda's presence with us today, that is more general in scope with respect to the ICC and not focusing just on Libya. For several weeks now, the ICC has found itself treading on delicate ground following the decision of a handful of African States to begin the process of withdrawing from the Rome Statute. This is not good news. I should like to take the opportunity of Ms. Bensouda's presence here to reiterate to her my country's resolute support for the Court. Spain stands ready to contribute in a constructive manner and in a spirit of dialogue to the quest for solutions that, with due respect for the independence of the Court and the integrity of the Rome Statute, would allow us to overcome the differences cited by those countries in communicating their decision to withdraw from the Rome Statute.

In any case, we should not give in to defeatism. There are grounds for optimism. This year may be the most fruitful year yet for the ICC, and it is important that we remember this. The Court keeps alive the hopes of thousands of victims, demonstrating that with the requisite will and resources, justice is possible. On that note, I convey to Ms. Bensouda the full support and gratitude of Spain.

Mr. Akahori (Japan) (*spoke in French*): I should like to thank Prosecutor Bensouda for her report and her briefing.

Japan emphasizes its belief that the perpetrators of serious crimes must be held accountable for their actions. Japan also commends the accomplishments of the International Criminal Court (ICC) to date. Japan has consistently supported the ICC so that it can function effectively and sustainably in promoting the rule of law, with the support of the international community.

Japan strongly believes that more States should join the ICC so as to ensure that the Court can effectively promote the rule of law. In the long run, the ICC should aim to become a truly universal criminal Court and gain stronger support for its work. In this regard, we are worried, as is Spain, by the recent decisions taken by some African States to withdraw from the ICC. In order to secure support and cooperation from a greater

number of States, the ICC and its States parties should listen to the concerns expressed by some as to its role.

Allow me now to turn to the issue of Libya. Japan welcomes the fact that the Libyan Prosecutor-General's Office has been cooperative with the ICC on many issues. We encourage the Libyan Government of National Accord and all countries concerned to cooperate with the Court pursuant to resolutions 1970 (2011) and 2259 (2015). We are aware of the current political and security situation in Libya and the serious difficulties that its authorities are facing. Under these circumstances, Saif Al-Islam Al-Qadhafi has not yet been handed over to the Court.

Japan hopes that with the improvement of the situation, the cooperation between the Libyan authorities and the Court will be strengthened and that this will enable the ICC to play a greater role in the fight against impunity.

With regard to violations of international humanitarian law and human rights law in Libya, Japan notes with particular interest that the Prosecutor's report mentions her hope that additional arrest warrants will be obtained. We hope to hear detailed updates on this matter.

Japan reiterates the importance of forming a representative, united Libyan Government. The Presidency Council should work swiftly to submit a revised list of Cabinet members to the House of Representatives. The House of Representative should in turn give due consideration to the list. It is essential that all parties uphold their obligations under the Libyan Political Agreement.

Japan continues to support the ongoing efforts made by the Special Representative of the Secretary-General, Mr. Martin Kobler; the United Nations Support Mission in Libya; and the Government of National Accord to promote the political process.

Japan fully supports the activities of the ICC, including those of the Office of the Prosecutor. My delegation looks forward to hearing of tangible progress on the issue we are considering today.

Mr. Gimolieca (Angola): We thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her presentation of the twelfth report, as mandated by resolution 1970 (2011).

The political and security situation in Libya remained critical during the reporting period despite the efforts of the Presidential Council of the Government of National Accord. We reiterate our appeal to all political actors in Libya to pool their efforts in a constructive fashion with determination, courage and goodwill in connection with the efforts being made by the Government of National Accord. The political impasse has weakened the efforts of the Government to face the chaotic security situation, the economic crisis and the growing impunity of terrorist groups and armed militias against the civilian population.

We take note with concern of the information regarding Libya presented on 27 September by the Deputy High Commissioner for Human Rights, Ms. Kate Gilmore, during the thirty-third session of the Human Rights Council, in which she outlined that heavy weapons continued to be transferred to residential areas throughout the country, armed groups were acting with total impunity and thousands of people were brutally being kept in detention centres. Furthermore, migrants, refugees and asylum seekers are arbitrarily being detained, with various reports indicating abuse perpetrated against those groups — such as summary executions, torture and other mistreatment, sexual abuse, extortion and forced labour. That situation constitutes a flagrant violation of human rights and international humanitarian law.

However, the institutional and political context of Libya does not offer the necessary conditions to investigate and persecute the authors of those atrocious crimes, which, according to the Statute of the ICC, fall under national jurisdiction. We believe that conditions in Libya to apply the necessary judicial process are currently non-existent. In that regard, we consider the ICC to be highly important in Libya.

We welcome the information contained in the report of the Ombudsperson of the ICC, by which on 31 August the Misrata-Tawergha accord was signed. That led to the return of displaced people and compensation for affected communities. It is highly commendable that the signatories to the accord expressed their desire to achieve peace, justice and reparations and to establish the rule of law and contribute to efforts that seek to avoid the repetition of past mistakes for future generations. We strongly encourage other initiatives of the kind to improve the lives of the population of Libya.

To conclude, we reiterate our view that only in an environment of peace and stability can a functioning judicial system and institutions be established. Therefore, we reiterate our support for the United Nations and the international community in the implementation, together with the relevant actors, of Libya's Government of National Accord for the sake of establishing lasting peace as well as accountability for all those responsible for perpetrating violent crimes and human rights violations.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): In the six months since the previous briefing (see S/PV.7698), significant changes for the better in the political-military situation in Libya have not occurred. The main issue remains the fragmentation of the country and its governmental institutions, despite attempts by the Presidency Council in Tripoli to consolidate its authority. The composition of the Government of National Accord has not yet been confirmed by the House of Representatives in accordance with the procedure set out by the Skhirat Agreement. We see no alternative to continuing the intra-Libyan dialogue under the auspices of the United Nations, and with the participation of all active political forces in the country.

The continuing terrorist threat emanating from Libya continues to keep tensions high for its neighbours. Fighting this threat, in particular against the backdrop of a failure to unite security structures, has been done haphazardly. Localized successes are not a substitute for a large-scale counter-terrorist campaign under unified command. Possible foreign assistance in that respect should not contribute to preserving internal divisions in Libya, as otherwise the tragic mistakes of the 2011 intervention will continue to weigh on this long-suffering country.

We take note of the twelfth report of the Prosecutor of the International Criminal Court (ICC) regarding the situation in Libya. We note that it was submitted to the Security Council on the eve of today's meeting. For reasons we cannot fathom, that seems to be becoming the standard practice. We believe that a full-fledged discussion of a document by delegations requires preparation. That is why such a late circulation of the report raises doubts regarding the ICC's desire for serious dialogue with the Security Council.

On the basis of the report, we are forced to note the lack of progress on the main issues of the Libyan dossier, such as the forced displacement of the Tuareg people, torture, illegal detentions and abductions. The Office of the Prosecutor continues to remove itself from consideration of the issue of civilian deaths resulting from NATO's 2011 bombings. We see no real steps towards organizing the prosecution of the insurgents for their alleged crimes: not a single case was initiated in five years. The Office of the Prosecutor has adopted a similar stance regarding Islamic State in Iraq and the Levant terrorists, who, by the way, for some reason are referred to simply as "Islamists" in the report. In that context, once again, there is nothing more than an abstract intention to revisit possible proceedings in the future.

In the light of repeated attempts to present the Libyan dossier as a type of burden dropped upon the Security Council, I should like to remind members that in 2011 the main proponents of the idea of referring the situation in Libya to the ICC were certain States parties to the Rome Statute and the Office of the Prosecutor. They should have recognized the financial and other consequences of that step for the Court. That is why the report's requests for the ICC to be materially supported by the United Nations appears to be illogical.

By way of conclusion, we would like to again note that the ICC's experience in Libya cannot in any way be qualified as successful, whether in the administration of justice and the prevention of new crimes or in terms of contributing to national reconciliation. The situation and the process of withdrawal from the Rome Statute by a number of States deepens our doubts regarding the usefulness of involving the ICC in any new cases.

Mrs. Adnin (Malaysia): I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for presenting her twelfth report to the Security Council as requested under resolution 1970 (2011).

The current political and security situation in Libya continues to present tremendous challenges and hampers ongoing efforts by the Presidency Council of the Government of National Accord to restore peace and stability to the country, including ending impunity for crimes of serious concern to the international community. Malaysia continues to believe that the formation of an effective and credible Government of National Accord is crucial in bolstering Libya's commitment and capabnility to promote and restore the rule of law, to address impunity and to bring all perpetrators of such crimes to justice. We call upon

all parties in Libya to redouble their efforts to bridge differences, find common ground and work closely together towards the swift and full implementation of the Libyan political agreement.

Despite the significant security challenges in the country, we are encouraged by the continuing efforts and commitment of the Libyan authorities to comply with the relevant Security Council resolutions, as well as the ongoing cooperation rendered by the Libyan Prosecutor-General's Office. That is a good foundation on which to further build upon.

The widespread violence and impunity in Libya, particularly by the Islamic State in Iraq and the Levant, which continues to be the most prolific perpetrator of grave crimes and violations of international law in the country, alongside other violent extremist groups, remains of concern. We reaffirm the Security Council's strong condemnation of such atrocities and reassert the call for accountability. At the same time, allegations of such crimes being perpetrated against civilians by other parties to the conflict should also be a matter of concern. Those allegations must be thoroughly investigated and accountability must be pursued so that impunity is addressed, with a view to building trust and confidence and towards promoting national reconciliation.

This will be Malaysia's last opportunity to engage on the important issue of addressing impunity and accountability for the most serious crimes in Libya before ending our term as a non-permanent member of the Security Council. Since joining the Council some 22 months ago, we have been fully invested in the United Nations-led facilitation efforts for a Libyan-owned and Libyan-led process to restore peace, stability and security to the country. Despite the enormous challenges that continue to plague the country, there have been some positive developments and milestones achieved in that regard. Those gains must be preserved and built upon if Libya and its people are to progress beyond the current situation.

In concluding, I wish to reaffirm Malaysia's full support for the efforts of the United Nations and the international community to assist Libya to prevail over adversity and achieve a lasting political settlement and stability. Looking beyond our term in the Council, we wish to also reaffirm our continuing support for the people and the Government of Libya.

Mr. Xu Zhongsheng (China) (*spoke in Chinese*): I would like to thank Ms. Bensouda for her briefing.

China has been closely following the developments in Libya and supports its process of political transition that is being mediated by the United Nations. We welcome the Libyan political dialogue meeting that will be used as a forum for Libyan political dialogue, to be held in Malta, and we hope that it will facilitate the implementation of the Libyan Political Agreement by all parties.

We also hope that all parties in Libya will remain committed to an inclusive, Libyan-led political process, put their national interests before any other matter, abide by Security Council resolutions, effectively implement the Libyan Political Agreement and resolve their differences through negotiation and consultation, so as to restore security and stability in the country. That is the prerequisite and basis for Libya to achieve judicial justice.

China's position on the international judicial organ remains unchanged.

Ms. Sison (United States of America): I thank the Prosecutor of the International Criminal Court (ICC) for her report and for her continued engagement with the Security Council on the importance of accountability for atrocity crimes committed in Libya.

Libya's ongoing crisis provides a climate of impunity for such crimes. More broadly, it has impeded the ability of the Libyan people to see the hope of their country's revolution translated into an enduring foundation for peace, stability and prosperity. The next step towards a solution is a stable, unified and inclusive Government. The international community must therefore help Prime Minister Serraj to consolidate progress towards implementing the Libyan Political Agreement and strengthen Libya's institutions.

To that end, we urge Libyans on all sides to make progress towards national reconciliation. The Presidency Council should present an inclusive new Cabinet proposal, and the House of Representatives must fulfil its duty to allow a free and fair vote on that Cabinet. The Libyan Political Agreement is of course a transitional framework. We urge the constitutional drafting assembly to complete its work as quickly as possible and, in 2017, Libya should hold a referendum on a new Constitution and elect a new Government.

Nothing could more clearly emphasize the human stakes of making political progress than the reports of civilian suffering that the Security Council continues to receive. Violations and abuses continue to be committed against people from a broad range of vulnerable populations, ranging from civilians who are subject to indiscriminate or even deliberate attacks, to captured combatants who have been tortured and killed, to migrants who have sought to pass through Libya and have been inhumanely detained, extorted, sexually assaulted and otherwise exploited by smugglers and traffickers. The United Nations Support Mission in Libya has reported that there is "total impunity" for serious abuses that are committed by armed groups. Those violations and abuses are appalling in their own right. Furthermore, they create grievances that sustain the broader political crisis, and therefore work against our common efforts to achieve a lasting peace. We call on all parties to refrain from unlawfully targeting civilians, and we urge that those responsible for serious crimes be held accountable. Much more must be done to establish a functioning justice system that is capable of addressing that problem.

We are encouraged by the progress of the forces aligned with the Government of National Accord in retaking the city of Sirte. We look forward to seeing that progress further consolidated in the coming days and weeks.

The presence of Da'esh is a threat to Libya's future and to regional security. Its eventual military defeat must be reinforced with progress towards reconciliation, dialogue and the rule of law. In that vein, the atrocities allegedly committed in the last days of the Al-Qadhafi regime may seem far removed from today's conflict, but we believe that promoting accountability for those acts remains a key element of the broader effort to re-establish the rule of law in Libya. The ICC investigation has helped to ensure that the Al-Qadhafi regime's acts in early 2011 were seen as the crimes that they are, and that those responsible for such acts could not count on impunity.

We remain encouraged by the reports of continued cooperation between Libya's judicial authorities and the Office of the Prosecutor. While we recognize that Saif Al-Islam Al-Qadhafi is not in the Libyan Government's custody, we continue to urge the Government of National Accord to take the appropriate steps to seek his transfer to the International Criminal Court, consistent with Libya's obligations under resolution 1970 (2011) and the repeated calls of the Security Council for Libya to cooperate fully with the ICC and the Prosecutor. To the extent that other actors continue to frustrate that process, we encourage the Council to add its voice to the call for Mr. Al-Qadhafi to be transferred to The Hague and face charges there for the crimes against humanity that he has alleged to have committed. We appreciate the Prosecutor's efforts to help ensure that the victims of such atrocities do not escape our continued focus.

The Libyan people face an array of challenges, and only they can take the steps needed to resolve their country's crisis. However, they should know that they do not stand alone. We are encouraged by the agreement reached in August between representatives from Misrata and Tawergha, cities that fought bitterly in 2011 but have now agreed to compensate the victims of abuses and allow the return of the internally displaced, a process that was assisted by the good offices of the United Nations Mission. We appreciate the continued work of Special Representative of the Secretary-General Martin Kobler and the attention of the Council and of the Human Rights Council to the situation. The United States will continue to work with our partners in pursuit of a lasting peace for Libya.

Mr. Taula (New Zealand): We thank Prosecutor Bensouda for her briefing.

Our experience on the Council over the past two years has reinforced to us the need for an effective international accountability framework. The International Criminal Court (ICC) plays an important role in that framework. Its existence sends a clear message that the international community has the tools to ensure that serious international crimes will not go unpunished. The Security Council's ability to make referrals to the ICC is an important part of that framework. However, as we have stressed numerous times, the Council must remain scrupulous in avoiding perceptions that it is using referrals as a political tool, particularly in the midst of a conflict. Such actions risk politicizing the Court and can prolong both the conflicts concerned and the process of seeking accountability. Furthermore, the Council should not make referrals unless it is also prepared to follow up on their implementation. Sustained non-compliance with resolutions under Chapter VII of the Charter of the United Nations calls into question the very credibility of the Council and the authority of its resolutions.

In our view, costs incurred by the ICC as a result of decisions by United Nations organs should be attributed to, and accounted from, the United Nations budget. At the very least, Council members should not obstruct open discussions on the issue, but should defer to the General Assembly, which has the prerogative and mandate to determine funding issues.

Developments in Libya have not yet paved the way for re-establishing effective Government authority, restoring the rule of law, protecting basic human rights and providing justice for past violations. The situation remains extremely fragile. As a result, the environment for the ICC in taking forward the Council's Libya referral remains extremely challenging.

The current security environment makes it almost impossible for ICC staff to undertake investigations on the ground. Moreover, Saif Al-Islam Al-Qadhafi remains in detention in an area outside the custody and control of the Government of National Accord. We nevertheless commend the Office of the Prosecutor for its continued efforts, and we welcome the ongoing cooperation provided by Libyan Prosecutor-General's Office.

The ICC is of course a court of last resort. It was never intended to take the place of national justice systems, but rather to complement them. However, Libya's current domestic judicial options remain significantly constrained, especially its investigative and judicial capacities. We believe the international community, including the ICC, has a role to play in helping to build Libyan capacities in this area. The ICC's interactions with Libya have given it useful practical knowledge of Libya's circumstances and needs in that regard.

We note the Prosecutor's active efforts to encourage the development of coordinated investigative and prosecutorial strategies with regard to Libya-related cases in order to help to close the impunity gap for ICC crimes. We welcome the agreement in principle at the recent meeting convened by the ICC with judicial and investigative agencies from Libya and various interested States to work collectively and in a coordinated manner.

While we remain supportive of the Prosecutor's efforts in Libya, we cannot pretend that this referral is currently the most pressing issue facing either Libya or the Court. Moreover, we must be cognizant of the broader political context in which this work is being undertaken. The ICC is currently facing an unprecedented situation in its relationships with some of its African members. None of us should be surprised. That situation has been brewing for some time. There are genuine substantive concerns, and they need to be thoroughly discussed. But we also need to get much better at listening to, and engaging with, African States on issues of concern to them.

New Zealand has tried to play its part in facilitating such a dialogue in the ICC context as well as in the General Assembly and here in the Security Council. We were disappointed that the meeting between the Council and the African Union ministerial committee on the ICC, which we scheduled during our September presidency, did not proceed. We need to see greater willingness to prioritize such engagement. The recent announcement by three African States that they intend to withdraw from the Rome Statute should concern us all. African States were among the earliest and strongest ICC supporters, and we do not believe it is in anybody's interests to now see them walk away.

Now is the time for an open, honest and respectful dialogue between the Council, the ICC and its African members, aimed at finding a way through the current crisis that best serves our common goal of ending impunity. As a friend of both the Court and of Africa, New Zealand is committed to playing its part.

Mr. Rosselli (Uruguay) (*spoke in Spanish*): We again welcome the presence of the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, and express our appreciation for her briefing on the twelfth annual report on the situation in Libya in accordance with resolution 1970 (2011).

We reiterate the full support of Uruguay for the work of the Prosecutor and for the role of the International Criminal Court in strengthening the rule of law at the international level by the establishment of judicial processes for those responsible for serious crimes against humanity as defined in article 5 of the Rome Statute. In order to make that work more effective, we call on all Member States that are not yet parties to the Rome Statute to adhere to it with the objective of fighting impunity and defending all inhabitants of the planet against atrocity crimes that pose a serious threat to the peace and security of humankind.

On the other hand, my delegation's message will not be directed solely to those that are not parties to the Rome Statute, but also to those States that recently decided to reject it. It is important to safeguard and strengthen the International Criminal Court, which has

shown itself to be an effective instrument in providing justice when when national courts are incapable of doing so.

With regard to Libya, the latest report does not provide very encouraging signs. The authority of the Presidency Council of the Government of National Accord continues to be challenged at the national level, and the blockade imposed by the Tobruk House of Representatives has not allowed for the Cabinet to be established. The multiple challenges facing Libya five years after the civil war require swift and efficient responses from its new authorities, who face the threat of Islamist terrorism, a persistent migrant crisis and a severe economic crisis, among other problems.

It is necessary to achieve progress in the reunification and reconciliation of the country, while avoiding further bloodshed among the population and putting end the institutional crisis and the military conflict that has ravaged the country during the past five years. It is necessary to advance towards the goal of a genuine democratic transition and lasting peace and stability, as a basis for more effectively investigating the atrocities committed in the country and to avoid a continuation of the situation of widespread violence and impunity.

We trust the new Libyan authorities will fulfil their commitment to bring justice to the victims of these crimes, in cooperation with the Prosecutor of the Court in order to identify the perpetrators, no matter who they are. In particular, we encourage the new Libyan Government to make Saif Al-Islam Al-Qadhafi available to the Court and to ensure that Abdullah Al-Senussi and other individuals receive trials that include full international safeguards.

We are concerned that the Prosecutor will have to face budgetary limitations next year in order to be able to expand her investigation into the crimes taking place in Libya, which the report identifies as one of the Prosecutor's priorities for 2017. For that reason, we support her request to access the necessary resources to be able to comply with her, and we call on States parties able to provide the necessary financing to do so.

Finally, we reiterate our recognition of the work of the Prosecutor in her investigations into crimes committed in Libya, which will undoubtedly contribute to strengthening the rule of law and the establishment in Libya of a more just and inclusive society where there is full respect for basic rights and guarantees for all citizens, who have seen those rights violated for years.

Mr. Vitrenko (Ukraine): I would like to start by joining other Council members in thanking the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing.

We must acknowledge that, since our last discussion in the Council on this matter (see S/PV.7698), the overall picture fundamentally remains the same. More than five years after the adoption of resolution 1970 (2011), the perpetrators of the major crimes against humanity referred to the ICC have not been held accountable. However, it is not a result of the unwillingness of the Libyan authorities to cooperate with the Court. On the contrary, as highlighted in the twelfth report of the Prosecutor of the International Criminal Court to the Security Council pursuant to resolution 1970 (2011), the Government of National Accord is truly committed to implementing the 2013 memorandum of understanding on burden-sharing and the Libyan General Prosecutor's Office continues to cooperate with the ICC.

We take note of the continuation of the Court's examination of crimes committed in the territory of Libya and the collection of respective evidence. In our view, a particular focus during such activities should be given to atrocities committed by Islamic State in Iraq and the Levant, Ansar Al-Sharia and other non-State actors in Libya. In that respect, Ukraine strongly condemns attacks against civilians, abductions and assassinations of Government officials and judges, as well as the shelling of hospitals and looting of property, which, regrettably, are still a common occurrence across the country.

We consider that much more could be done to ensure accountability for such crimes if the ICC personnel were able to conduct investigations within the territory of Libya. We fully agree that this will require the stabilization of the security situation as well as the provision of meaningful financial resources and assurances with regard to the security of ICC staff. In conclusion, I would like to stress that the Court will be able to deliver justice to victims, only with the full backing of the Council and the relevant United Nations entities, including the United Nations Support Mission in Libya and the States parties to the Rome Statute.

Mr. Suárez Moreno (Bolivarian Republic of Venezuela) (*spoke in Spanish*): We thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou

Bensouda, for her briefing, and once again express full support for her work.

As a State party to this legal instrument, our country fully supports strengthening the Court's institutional structure and enhancing the effective work of the International Criminal Court. In that regard, we encourage the countries that are not parties to the Rome Statute to accede to that instrument with a view to achieving its universality. The fight against impunity for internationally defined atrocity crimes, such as genocide, war crimes and crimes against humanity, inter alia, can be achieved only with international cooperation. That is a key aspect in achieving the Court's objectives. The Court requires the full support of all States in order to enforce its rulings and to carry out its work. The strengthening of the international criminal system established through the creation of the ICC requires States parties to abstain from measures that would weaken the important functions of the ICC as it combats impunity. With that understanding, it is essential for us to preserve and uphold the independence and impartiality of the Court and free it from the meddling of specific interests that would only hamper its effectiveness.

The unstable political situation following the collapse of the Libyan regime's institutions, caused by the NATO military intervention in 2011, continues to have an adverse impact on the rule of law, and in particular on the legal system in Libya. The aftermath of that intervention is still being felt today. The institutional collapse and the clashes between the various factions seeking to wrest control of the country, make it difficult for the State and its institutions to function properly. In the light of that situation, Libya must be supported in crafting a robust legal system that would guarantee due process and respect for the human rights of perpetrators of atrocity crimes. Libya is a country that is submerged in widespread chaos and violence, which Islamic State in Iraq and the Sham, Al-Qaida and Ansar Al-Sharia have exploited in order to carry out their terrorist activities.

Violations of international human rights law and international humanitarian law perpetrated by those groups should also be investigated by the International Criminal Court in order to determine the persons responsible for such abuses. We welcome the ongoing cooperation between the Libyan Public Prosecutor and the ICC, as mentioned in the twelfth report of the Prosecutor of the International Criminal Court to the Security Council pursuant to resolution 1970 (2011). Nonetheless, we urge the Libyan authorities to coordinate efforts to a greater extent with the Office of the Prosecutor and to engage in the consultations to properly address issues such as the handing over of Saif al-Islam Al-Qadhafi, so that he can be tried fairly and in accordance with due process, in line with resolution 1970 (2011). His transfer to the ICC should be facilitated by the militia in Zintan.

We are also concerned that individuals who have been accused of engaging in acts of torture against members of the Qaddafi family and members of the Government of former President Muammar Al-Qadhafi have not been detained or properly tried by the Libyan justice system. We have also heard reports that one individual accused of torture in a prison in Libya was not only discharged but allowed to return to the same prison, in which he had carried out those human rights violations.

Finally, the Libyan Government is currently facing various major challenges. We urge the Libyan authorities not to lose heart in their struggle to establish the rule of law with robust legal institutions which would serve as a bedrock for the promotion of human rights and the respect thereof, including the international principles of due process, the right to defence and the presumption of innocence, as judicial guarantees that are deeply entrenched.

The President (*spoke in French*): I shall now make a statement in my capacity as the representative of Senegal.

First of all, I would like to sincerely thank the Prosecutor of the International Criminal Court (ICC) for her briefing on the twelfth report of the Prosecutor of the International Criminal Court to the Security Council pursuant to resolution 1970 (2011) and to warmly commend the dedication and the professionalism with which she discharges her duty. That duty, we should recall, is to dispense justice for the millions of innocent victims of mass atrocities. I take this opportunity to reiterate Senegal's support for the Rome Statute and reaffirm my country's commitment to the effective implementation of resolution 1970 (2011), unanimously adopted on 26 February 2011.

The review of the twelfth report allows us to affirm that, despite an unstable international security environment and ongoing budgetary constraints, the Office of the Prosecutor has managed to make

progress on investigations in the cases involving Saif Al-Islam Al-Qadhafi and Abdullah Al-Senoussi. In addition, it was able to provide judicious follow-up to the proceedings regarding allegations of torture and ill-treatment in the Al-Hadba prison and issue additional arrest warrants to apprehend other suspects. That is an eloquent expression of the desire of the Prosecutor to conduct criminal investigations under the November 2013 memorandum of understanding on burden-sharing with the Libyan authorities through sound cooperation and exemplary understanding with the Office.

My delegation encourages the Prosecutor to continue along that path and encourages the Libyan authorities to continue sharing information and cooperating with the Office of the Prosecutor, with a view to building a credible and effective judicial system. After all, it is up to the Libyan authorities to guarantee respect for the rule of law in their own country. To that end, the support of the international community for Libya, through its Presidency Council, remains vital to restoring stability and security throughout the country. Such stability and security require the unification and reconstruction of all national institutions, including political institutions and security and defence forces. That is why my delegation would like to reiterate its support for United Nations mediation, led by the Special Representative of the Secretary-General and Head of United Nations Support Mission in Libya, Mr. Martin Kobler.

This is an issue around which we must forge a strong consensus. When the Security Council refers a situation to the Court, it is simple logic that it should ensure that the Court has the necessary cooperation of Member States, and in particular it must grant the Court the means necessary to the success of its mission. The perfect convergence between the values and ideals of the Rome Statute, on the one hand, and the principles and purposes of the Charter of the United Nations, on the other, demand that the Security Council and the ICC cooperate increasingly closely in their common fight against impunity for a world of justice, peace and security.

It was not only to put an end to impunity and prevent major crimes, but also to respond to the feelings of frustration and outrage evoked by humanitarian tragedies that have caused so much suffering to the peoples of the world, that 120 States met in Rome 18 years ago to set up the ICC, whose jurisdiction encompasses the crimes considered to be the most serious by the international community. Unfortunately, we are forced to note that atrocities continue to be perpetrated against innocent victims on a daily basis, and the overwhelming majority of them still await justice. That is why my delegation urges the international community to step up its work to promote the successful functioning of the ICC and the universality of the Rome Statute.

We must recall that the ICC remains today the only recourse for victims where the right to justice is not upheld *in situ*. That is why the Senegalese delegation cherishes the hope that the States that have withdrawn from the Rome Statute will heed the call of the President of the Assembly of States Parties and reconsider their positions, and that those States that have not yet withdrawn from the Rome Statute will adhere to it.

We firmly believe that a positive perception of the Court and the promotion of peaceful relations marked by mutual trust between Africa and the ICC, as well as the efficient and effective addressing of everyone's concerns, necessarily require dialogue and cooperation. We therefore invite all States parties to commit themselves to a unified policy of consensus and solidarity to restore the confidence and enthusiasm that people and Governments demonstrated during the creation of the Court. Given the gravity of certain crimes that shock our collective conscience, we have a moral duty to remain united and act together.

I resume my functions as President of the Council.

I now give the floor to the representative of Libya.

Mr. Elmajerbi (Libya) (*spoke in Arabic*): At the outset, I would like to congratulate you, Mr. President, on assuming the presidency of the Security Council this month. I wish you luck and success in your endeavours. I would also like to thank the Russian Federation for presiding over the Council during the past month.

I would like to express our thanks and appreciation to Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing on the twelfth report on the situation in Libya. I would also like to commend her efforts in carrying out her task in my country, pursuant to the relevant Security Council resolution. In that regard, I would like to stress that the Government of National Accord will continue to cooperate with her and with her Office, through the Libyan Prosecutor-General's office, in order to put an end to impunity, establish justice and protect civilians in Libya from violations and crimes. Ms. Fatou Bensouda spoke about the cooperation and coordination of the Libyan

Prosecutor-General's office with the national focal point in her report.

In conclusion, we hope that the security situation in Libya will improve in a way that would allow the Prosecutor's Office to communicate directly with the Libyan authorities so that it can pursue its work, establish justice and ensure that the rule of law prevails in my country.

The meeting rose at 4.45 p.m.